

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----  
SHAKUR YOUNG

RECEIVED  
SDNY DOCKET UNIT  
2018 DEC 28 PM 4:26

V

DOCKET No. 18-CV-3316(CM)

THE CITY OF NEW YORK; NEW YORK CITY  
DEPARTMENT OF CORRECTION COMMISSIONER  
JOSEPH PONTE; BUREAU CHIEF OF SECURITY  
BRIAN SUPRENTANT; WARDEN PRESSLEY RNDG;  
CAPTAIN ANJELOVIC #1750, NYCDC OFFICER  
CIELTO #3731, NEW YORK CITY HEALTH AND  
HOSPITALS CORPORATION  
-----

AMENDED COMPLAINT

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:

12-28-18

1. This is a Civil Rights Lawsuit brought by the Plaintiff against New York City officials acting under the "Color Of Law" for the Civil Rights violation involving Excessive Force, 42 U.S.C. § 1997 Civil Rights of Institutional Person Act, Violations of the Universal Declaration of the Human Rights Article 18, 19 & 25, and violation of the Eight Amendment as well as State claims for Medical Malpractice , Gross Negligence, Denial of Immediate Medical Attention and Treatment and Retaliation for filing grievance and lawsuits. At all times relevant herein, the Defendants City officials actions "Under The Color Of Law" and outside the scope of their jurisdiction and authority pursuant to Customs and Policy willfully caused Plaintiff unlawful damage and in so doing violated clearly, established law, as those laws apply to Plaintiff protected under Constitution particularly under Eight and Fourteenth Amendments. Be it known each of the "City Officials" herein have taken a sworn "Oath Of Office" on regards to their duties and there for each of their acts under "Color Of State Law" is in direct violation of their "Oath Of Office" and equates to Criminal Conspiracy under section 1983.

JURISDICTION AND VENUE

(2)

2. The Plaintiff brings this action pursuant to section 1983, 1985, 1986 and 1988, and invokes the jurisdiction of this Court pursuant to Title 8 use section 1331, 1332 and 1343(a)(3)(4), and 42 U.S.C.A. § 1983, and the Civil Rights Act 1964 and Constitution of the United States. At all times relevant, all the Cause of Actions were committed within the geographical jurisdiction of this court.

3. The Plaintiff also invokes supplemental jurisdiction of this court over Plaintiff state law claims against the Defendant's for common-law violations pursuant to 28 U.S.C.A. § 1367.

#### PARTIES

4. The Plaintiff SHAKUR YOUNG, is a pretrial detainee at the time of these events at the ROBERT N. DAVORAN CENTER, 11-11 Hazen Street, East Elmhurst, New York 11370. Rikers Island.

5. The Defendant THE CITY OF NEW YORK, 100 Church Street, New York, NY 10007-2601. Herein the City Of New York at all times relevant to this complaint, was and is a municipal corporation for the City of New York, State of New York, responsible for compensating, enriching and rewarding and making policies for the Defendant's New York City Department of corrections commissioner JOSEPH PONTE, Bureau Chief of security BRIAN SUPRENANT, Warden ADA PRESSLEY RNDC, Captain ANJELOVIC #1750, NYCDC officer CIELTO #3731, NEW YORK CITY HEALTH AND HOSPITALS CORPORATION.

6. The Defendant New York City Department Of Corrections Commissioner JOSEPH PONTE, New York City Department of Corrections 75-20 Astoria Boulevard, East Elmhurst, New York 11370. Herein at all times relevant to this complaint, was acting as a City official employed for the municipality of the City of New York Department of Corrections,

(3)

an official selected by the City of New York in charge of New York City Department Of Corrections, compensated, enriched, rewarded correction rewarded correction officer.

7. The Defendant New York City Department Of Corrections Bureau Chief BRIAN SUPRENANT, New York City Department Of Corrections 75-20 Astoria Boulevard, East Elmhurst, New York 11370. Herein at all times relevant to this complaint, was acting as a City official employed for the municipality of the City of New York Department Of Corrections, appointed by New York City Department Of Corrections Commissioner Joseph Ponte in his administration to Bureau Chief of Security, compensated, enriched, rewarded correction officer.

8. The Defendant Warden ADA PRESSLEY, ROBERT N. DAVORAN CENTER, 11-11 Hazen Street, East Elmhurst, New York 11370. Rikers Island. At all times relevant to this complaint was acting as a City official employed for the municipality of the City of New York Department Of Corrections, appointed by New York City Department Of Corrections Commissioner Joseph Ponte to the position of warden of RNDC. A person invested with the power to govern and or control day to day operations at this facility, compensated, enriched, rewarded correctional officer.

9. The Defendant Captain ANJELOVIC #1750, ROBERT N. DAVORAN CENTER, 11-11 Hazen Street, East Elmhurst, New York 11370. Rikers Island. At all times relevant to this complaint was acting as a City official employed for the municipality of the City of New York Department of Corrections, compensated, enriched, rewarded corrections officer.

10. The Defendant New York City Department Of Correction Officer CIELTO #3731. At all times relevant to this complaint was acting as a City official employed for the municipality of the city of NYCDOC at RNDC.

(4)

FACTS

11. On the 18th Day of September, 2017, at around 10:30am The Plaintiff SHAKUR YOUNG, was in the detainees bathroom in Mod #2, at the RNDC facility on Rikers Island, and a altercation occurred between two detainees.
12. The Plaintiff tried to stop the altercation between the two detainees, and all of a sudden NYCDC officer CIELTO shield No. 3731 came running into the bathroom and the chemical agent olesresin capsicum at a very close range all over the Plaintiff face, eyes, neck , and chest area. NYCDC officer also sprayed the two detainees involved in the altercation.
13. The Plaintiff immediately began to feel a extremely hot burning sensations to his face, eyes, neck and chest area.
14. The Plaintiff exited the bathroom and captain ANJELOVIC shield No. 1750, was standing right there.
15. The Plaintiff complained to captain ANJELOVIC shield No 1750, that he needs immediate medical attention because of being sprayed with the chemical agent olesresin capsicum by NYCDC officer CIELTO shield No. 3731.
16. The Plaintiff asserts that captain ANJELOVIC shield No. 1750, could clearly see that the plaintiff was in respiratory distress, and ion pain.
17. The Plaintiff asserts that captain ANJELOVIC shield No. 1750, said to the Plaintiff in a angry tone and with profanity laced words to go sit on your fucking bunk now!.
18. The Plaintiff asserts that he tried to comply with captain

(5)

ANJELOVIC Shield No. 1750 order and went to his bed area, but the Plaintiff could not remain there because of the intense burning sensations that he was feeling on his face, eyes, neck, and chest area, and the fact that the Plaintiff was vomiting alot by now and had difficulty breathing.

19. The Plaintiff asserts that got up from his bed and ran to the nearest garbage can, which was the one locted by the detainees phones in front of the bathroom.

20. The Plaintiff asserts that capatin ANJELOVIC Shield No. 1750, then ordered another NYCDCO officer to have the detainees placed inside the dayroom until further notice.

21. The Plaintiff asserts that there is a video camera facing the entrance to the bathroom, and that he can be seen on video exiting the bathroom in respiratory distress, vomiting, choking, difficulty breathing, and the Plaintiff conversation begging for medical care to captain ANJELOVIC.Shield No. 1750.

22. The Plaintiff asserts while in the dayroom he still have major trouble breathing, respiratory issues, vomiting alot and in pain.

23. The Plaintiff asserts that while he and many other detainees were place in the dayroom, we all can be seen by the video camera in that room trying to get fresh air from the windows open only partially, but this was a failed attempt because its only but some many windows inside the dayroom and it was just too may detainees.

24. The Plaintiff can also be seen choking, vomitng, and have difficulty breathing inside the dayroom on the video camera.

25. The Plaintiff asserts that shortly afterwards, another NYCDCO

(6)

officer came to the dayroom and made a announcement for the lunch time feeding, and that all detainees must exit the dayroom and go to the messhall downstairs to eat.

26. The Plaintiff asserts that he refused to go because he was suffering from from being directly sprayed with the chemical weapon olesresin capsicum, and was in serious need of medical attention.

27. The Plaintiff asserts that he exited the the dayroom and exited the dayroom and went to his bed area to a towel and hygiene equiptment to take a shower because of the intense burning of his skin he was continuing to feel.

28. Plaintiff asserts NYCDC officers did not informed that he must take a cool shower in order for the chemical agent to be removed from his skin, because the shower water in Mod #2 is extremely hot.

29. The Plaintiff asserts that when he turned on the water on and the hot water hit the affective areas that was sprayed with the chemical agent olesresin capsicum, it made matter extremely worse and the hot water made the chemical agent feel like someone threw gasoline on the Plaintiff and set him on fire.

30. The Plaintiff asserts that he screamed in agony as he quickly try to turn the water off.

31. Thaintiff asserts then he got dress putting the same contaminated facility issued uniform on and exited the bathroom.

32. The Plaintiff exited the bathroom area NYCDC officer CIELTO shield No. 3731, approached the Plaintiff inside the dorm area.

33. The Plaintiff asserts that NYCDC Officer CIELTO Shield No. 3731

34. The Plaintiff asserts that NYCDC officer Cielto #3731 said to

(7)

the Plaintiff that he must exit the dorm area and go downstairs to the messhall to eat, and the Plaintiff then shouted at NYCDC officer CIELTO #3731, and said that I need medical attention, and for him to please contact the clinic.

35. The Plaintiff asserts NYCDC officer CIELTO #3731, seem hesitant about making the call to the clinic with hope that the Plaintiff would abandon his request to go to medical due to being directly sprayed with the chemical agent by him.

36. Plaintiff asserts that by now his injuries are clearly visible , and that I was in respiratory distress.

37. The Plaintiff exited the dorm area and went and sat down on a chair directly in from of Mod #2 officers control bubble, and demanded to the officer in the control bubble to contact the clinic.

38. The Plaintiff asserts about fifteenth minutes later NYCDC officer CIELTO #3731 exited the dorm area of Mod #2 and said to the Plaintiff that he would be escorting him to the clinic.

38. When injuries are claimed by the Plaintiff especially when the use of excessive force through the chemical agent olesresin capsicum, the Plaintiff should have been decontaminated and received prompt medical care. There should be no delay in this process. Delays in sending detainee(s) to the clinic in RND facility are so common when excessive force through NYCDC officers misconduct, because correction officers fear of being sued by detainee(s). NYCDC officers CIELTO #3731, capatain ANJELOVIC #1750 were deliberate indifferent Plaintiff serious medical needs.

39. The Plaintiff asserts that NYCDC officers CIELTO #3731,

(8)

were aware of the fact that the Plaintiff was seriously in need of medical attention, and failed to provide access to medical personnel intentionally delayed such access.

40. The Plaintiff asserts that NYCDC officer CIELTO #3731, captain ANJELOVIC #1750, did nothing to temper the severity of their forceful response. This factor brings up the remainder of the NYCDC officers Cielto #3731, captain ANJELOVIC #1750 conduct, which amounted to a continuation and aggravation of the initial force applied to Plaintiff after the need for force has ended.

41. The Plaintiff asserts that he was finally escorted by NYCDC CIELTO #3731 to the clinic.

42. The Plaintiff asserts that on the way there NYCDC officer CIELTO #3731 tried to talk to the Plaintiff about what happened, and the Plaintiff said to officer CIELTO #3731, that he had no right to spray me with the chemical agent olesresin capsicum, that the Plaintiff was not involved in the altercation, that the Plaintiff was not armed with any kind of weapon nor was the Plaintiff a threat to NYCDC officers, staff or detainees.

43. The Plaintiff asserts that NYCDC officer CIELTO #3731 gave no warnings to the detainees who were involved in the altercation to stop fighting of force through the chemical agent olesresin capsicum will be deployed. These announcements must be made before the use of force through the chemical agent olesresin capsicum can be used, as well evacuation, decontamination and those detainees affected must receive prompt medical care.

44. The Plaintiff arrived at the clinic and the clinic officer log



(9)

him in the computer as well as the log book of the time of arrival and why the Plaintiff was brought to the clinic.

45. The Plaintiff asserts that the clinic officer then asked officer CIELTO #3731 for the injury report and officer CIELTO #3731 responded by saying he did not have one for me. The Clinic officer then stated to officer CIELTO #3731 that he must fill out one immediately on the Plaintiff. NYCDC officer CIELTO #3731 complied and filled out the injury report.

46. The Clinic officer then told the Plaintiff to go have a seat in the waiting area bullpen until summoned to be seen by a doctor.

47. The Plaintiff asserts that he waited for close to four hours in excruciating pain, respiratory issues and trouble breathing.

48. The Plaintiff asserts that all of a sudden there was an altercation with several adolescent detainees in the corridor directly outside the clinic.

49. The Plaintiff asserts that NYCDC officers security team at RNDP sprayed the younger detainees with the chemical agent olesresin capsicum.

50. The Plaintiff asserts that several security team officers were exposed and were brought to the clinic for treatment. NYCHHC personnel in the clinic gave treatment to the NYCDC officers and one school teacher who was exposed to olesresin capsicum.

51. Meanwhile, the Plaintiff is sitting in the waiting area bullpen in pain observing security team officers and a school teacher receiving treatment for injuries sustained from olesresin capsicum.

52. The Plaintiff asserts that he started to complain to the clinic

(10)

officer MONROE. and he stated to the Plaintiff that medical staff was going to treat NYCDC officer and personnel first before I can be seen by a doctor because they're a priority.

53. The Plaintiff started to complain some more to officer Monroe because he was in pain and trouble breathing, but it fell on deaf ears because the Plaintiff still have to wait until NYCHHC personnel treat NYCDC officer and staff first.

54. The Plaintiff asserts that about hour or so later another situation occurred. There was a accident with one of the transportation buses returning from a court trip and the injured detainees were brought to RNDC clinic, and NYCHHC personnel started to give them treatment while the Plaintiff still suffering and waiting to be seen by NYCHHC personnel.

55. The Plaintiff asserts at this point his injuries consisted of severe irritation possibly burns from the chemical agent on his skin. Respiratory issues, trouble breathing, severe headach, the Plaintiff could no longer vomit because there was nothing left in his stomach.

56. The Plaintiff asserts that by now it 2:30/2:45pm, and the Plaintiff have been waiting inside the clinic bullpen waiting area and have not been seen by any NYCHHC personnel.

57. The Plaintiff asserts the clinic captain WAITERS, was making her rounds in the clinic and as she walk pass waiting area bullpen the Plaintiff summon her.

58. The Plaintiff asserts that captain WAITERS came over to the bullpen waiting area and he started to complain to captain WAITERS about being sprayed with the chemical agent olesresin capsicum, and

that I have been waiting to be seen by a doctor since noon time 12:00pm, and have been denied prompt medical treatment because of injured NYCDC security team and school teacher who was placed ahead of me because of their exposure to olesresin capsicum, and also injured detainees were brought to the clinic from a transportation bus accident that occurred on a trip from the court house.

59. Captain WAITERS then said to the Plaintiff, let me see what I can do, and why you haven't been seen yet.

60. The Plaintiff asserts that finally around 3:45pm he was summoned to be seen by a doctor.

61. The Plaintiff explained what happened to him to the doctor who who did a cursory examination, and told me to take a shower and get rid of the contaminated clothing. The Plaintiff then states to the doctor that he tried to take a shower but the water is too hot and I think that due to this it made the chemical agent more intense which made my skin feel like it was on fire.

62. Plaintiff asserts still in a lot of pain he left the clinic and return to MOD #2 housing unit.

63. The Plaintiff asserts that the following day he filed a grievance about the following: Being sprayed by NYCDC officer CIELTO #3731 with the chemical agent olesresin capsicum, The Plaintiff not being evacuated, from Mod #2 housing unit for about an hour 90 minutes. The Plaintiff being denied immediate medical attention by NYCDC officers and medical (clinic) staff. While waiting in the clinic for treatment RND security team officers and one school teacher were brought to the clinic for injuries sustained due to olesresin

(12)

capsicum exposure and treatment, and a transportation bus accident that occurred and the injured detainees were brought RNDC clinic for treatment, thus further preventing the Plaintiff from receiving treatment for injuries sustained as directive result of being sprayed with the chemical agent olesresin capsicum.

64. The Plaintiff asserts that the grievance coordinator summon the Plaintiff to her office and then she said to the Plintiff sarcastically Mr. Young, you wrote a book.

65. The grievance coordinator then asked the Plaintiff why did he write so much on his grievance and the Plaintiff responded by saying that he's complaining about everything that happened that day to him.

66. The Plaintiff asserts that the grievance coordinator then said to him, from what she read this seems like a medical issues, and that going to forward my grievance to the clinic and I should be hearing something from them.

67. The Plaintiff asserts that he did'not want to get into a verbal with the grievance coordinator and her decision to send my grievance to NYCHHC medical providers whtch is in charged of providing medical care to detainees at the Robert N. Davoran facility.

68. Plaintiff asserts that his grievance was not only a deliberate denial of prompt medical treatment, but also excessive force and abuse by NYCDC officer CIELTO #3731.

69. The Plaintiff asserts that the grievance coordinator has a reputation of not getting issues resolved, and even NYCDC officers at RNDC facility don't worry about any detainees submitting grievances to her about them!.

70. The Plaintiff asserts that the grievance coordinator failed to inform him that Excessive Force and Medical issues are nongrievable issues under the NYCDC guidelines.

71. The Plaintiff asserts that he can clearly see that the grievance coordinator did not want to deal with the issues presented on his grievance.

72. The Plaintiff asserts that he never heard anything from NYCHHC about his grievance that was submitted to them by the grievance coordinator. The Plaintiff believes that the grievance coordinator did not forward his grievance to NYCHHC personnel.

73. See Exhibit A, a copy of the grievance submitted to the coordinator at RND.

74. The Plaintiff repeat, reiterate, and realleged with the same force and effect as if fully set forth here at length, each and every allegation alleged and set forth in paragraph 1-74 of this complaint.

75. As a direct and proximate result of NYCDC officer CIELTO #3731 brutality and misconduct, excessive force, and deliberate denial of prompt medical treatment by NYCDC officer CIELTO #3731 / captain ANJELOVIC #1750 / New York City Health and Hospital Corporation personnel at RND, as set forth above the Plaintiff has suffered and continues to suffer emotional and psychological pain.

76. At all times pertinent to these allegations, the Plaintiff was unarmed and did not pose a threat of death or grievous bodily injury to the defendants or detainees.

77. Plaintiff asserts that at no time did NYCDC officer CIELTO #3731 have probable cause to believe the Plaintiff was involved in the altercation inside MOD #2 housing unit detainees bathroom.

79. The Plaintiff asserts that the failure to ameliorate in a timely fashion the effects of olesresin capsicum spary may be considered excessive force by NYCDCO officers.

79. The Plaintiff asserts that NYCDCO officer intentionally did not comply with jail policy and manufacturer instructions regarding ventilation, decontamination and immediate medical care and treatment in order to inflict unnecessary and wanton pain and suffering.

79. The Plaintiff asserts that NYCHHC personnel knew of, and deliberately disregarded, an excessive risk to the Plaintiff health from delayed treatment. Deliberate indifference claim will arise when 'a medical professional completely denies care although presented with recognizable symptoms which potentially creates a medical emergency.

80. The Plaintiff asserts that NYCDCO officer CIELTO #3731, captain ANJELOVIC #1750, New York City Health and Hospitals Corporation, warden ADA Pressley, and other upper echelon officials were aware of the continuous use of excessive force and brutality by NYCDCO officers.

81. The Plaintiff asserts that the action of NYCDCO officer CIELTO #3731 constitutes unreasonable and excessive force.

82. Upon information and belief, at all times pertinentm the City of New York, NYCDCO commissioner Joseph Ponte, Bureau Chief of Security Brian Suprenant, Warden Ada Pressley RNDC, Captain Anjelovic #1750 permitted and tolerated a pattern and practice of unreasonable use of force by correction officers of the City of New York.

82. Upon information and belief, The City of New York, New York City Department of Corrections commissioner Joseph Ponte, Bureau Chief of Security Brian Suprenant, Warden Ada Pressley RNDC, has maintained a

system of review of corrections officers misconduct so untimely and cursory as to be ineffective and permit, tolerate the abuse and the unreasonable excessive use of force by New York City Department of Correction officers.

83. The act, omission, systemic flaws, policies and customs of the City of New York cause correction officers of the City of New York to believe that excessive and unreasonable use of force would not be aggressively, honestly, and properly investigated, with the foreseeable result that correction officers are more likely to use excessive or unreasonable force against Plaintiff and other detainees in the near future.

84. The plaintiff has raised a genuine issue of fact regarding whether the DOC and NYCHHC policy of regularly denying detainees prompt ventilation, decontamination, and medical care following oleoresin capicum spray discharged should have put supervisors on notice of misconduct that was sufficiently obvious, flagrant, rampant, and of continued duration to required "supervisors to act".

**COUNT I. VIOLATION OF CONSTITUTIONAL RIGHTS DEFENDANT**

**NEW YORK CITY DEPARTMENT OF CORRECTION OFFICER CIELTO #3731**

**(Claim for Compensatory Damages)**

85. Plaintiff incorporates by reference paragraphs 1 through 84.

86. The intentional use of excessive force by NYCDC officer CIELTO #3731, violated the rights of Plaintiff as guaranteed by the Fourth, Fifth, Eighth and Fourteenth Amendments to the United States Constitution, for which Defendant are individually liable.

COUNT II. VIOLATION OF CONSTITUTIONAL RIGHT DEFENDANTS  
NEW YORK CITY DEPARTMENT OF CORRECTION OFFICER CIELTO #3731

87. Plaintiff incorporates by reference in paragraphs 1 through 86.

88. The intentional use of excessive force through the chemical weapon Olesresin Capsicum, by NYCDC officer CIELTO #3731, when the plaintiff was unarmed and did not pose a threat of death or grievous bodily injury to Defendants or others, when Defendants had no lawful to use deadly or non deadly force against Plaintiff, was done with willful and wanton indifference to and deliberate disregard for constitutional rights of Plaintiff. Plaintiff is thus entitled to exemplary damages.

COUNT III. VIOLATION OF CONSTITUTIONAL RIGHTS DEFENDANTS  
NEW YORK CITY DEPARTMENT OF CORRECTIONS OFFICER CIELTO # 3731

(Claim for Compensatory Damages)

89. Plaintiff incorporates by reference in paragraphs 1 through 88.

90. The intentional use of excessive force through the chemical weapon Olesresin Capsicum, by NYCDC officer CIELTO #3731, when the Plaintiff was unarmed and did not pose a threat of death or grievous bodily injury to Defendants or others, when Defendants had no lawful authority to use deadly or nondeadly force against the Plaintiff was done with actual malice towards Plaintiff and with willful and wanton indifference to and deliberate disregard for the statutory Civil rights of Plaintiff.

COUNT IV. VIOLATION OF CONSTITUTIONAL RIGHTS DEFENDANTS

THE CITY OF NEW YORK, NEW YORK CITY DEPARTMENT OF CORRECTION  
COMMISSIONER JOSEPH PONTE, BUREAU CHIEF OF SECURITY BRIAN SUPRENANT  
, WARDEN ADA PRESSLY RNDC, OFFICER CAPTAIN ANJELOVIC #1750, OFFICER



**CIELTO #3731, NEW YORK CITY HEALTH AND HOSPITALS CORPORATION**

91. Plaintiff incorporates by reference in paragraphs 1 through 90.

92. It was the policy and practice of the City of New York to employ certain corrections officers, including New York City Department of Corrections commissioner Joseph Ponte, Bureau Chief of security Brian Suprenant, Warden Ada Pressley RNDC, Captain Anjelovic #1750, officer Cielto #3731.

93. It was the policy and practice of the City of New York to authorized certain correction officers to cover up the use of excessive force despite the lack of probable cause to justify the use of force through the chemical weapon Olesresin Capsicum. This policy and practice the Robert N. Davoran Center, Rikers Island encourage and caused constitutional violations by corrections officers, including the violations of plaintiff's constitutional rights by defendant's Joseph Ponte, Bureau Chief of Security Brian Suprenant, Wasrden Ada Pressley RNDC, Captain Anjelovic #1750, officer Cielto #3731.

94. It was the policy and practice of the City of New York to authorized certains corrections officers, including Defendant's commissioner Joseph Ponte, Bureau Chief of Security Brian Suprenant, Warden Ada Pressley RNDC, Captain Anjelovic #1750, officer Cielto, #3731, New York City Health and Hospitals Corporation, to deny and prevent prompt medical treatment of detainees injured by corrections at Robert N. Davoran Center RNDC. Also to prevent detained persons in the care custody of the City of New York from receiving prompt care, and to abuse verbally those detained persons who sought to assert these rights. These policies and practice of the City of New

**York encourage** and caused constitutional violations by New York City Department of Corrections, including the violations of the plaintiff's constitutional rights by Defendant's commissioner Joseph Ponte, Bureau Chief of Security Brian Suprenant, Warden Ada Pressley RNDC, Captain Anjelovic #1750, officer Cielto #3731, New York City Health and Hospitals Corporation.

95. At all pertinent times, Defendants City of New York, Commissioner Joseph Ponte, Bureau Chief of Security Brain Suprenant, Warden Ada Pressley RNDC, Captain Anjelovic #1750, and other unknown supervisors who supervised the officer who unlawfully violated Plaintiff rights encourage and tolerated the policies and practices. Defendant's City of New York, New York City Department of Corrections Commissioner Joseph Ponte, Bureau Chief of Security Brain Suprenant, Warden Ada Pressley RNDC, refused to adequately train, direct, supervised, or control corrections officers under there command as to prevent the violations of Plaintiff's constitutional rights.

96. Defendant's New York City Department of Corrections commissioner Joseph Ponte, Bureau chief of security Brain suprenant, Warden Ada Pressley RNDC, Captain Anjelovic #1750, officer Cielto #3731, New York City Health and Hospitals Corporations were acting in the scope of there employements and pursuant to the policies and practices of the City of New York. These policies and practices of the City of New York were enforced by Defendant's Commissioner Joseph Ponte, Bureau Chief of security Brian suprenant, Warden Ada Pressley RNDC, Captain Anjelovic #1750, officer Cielto #3731, New York City health and Hospitals Corporation, and were a moving force, proximate cause , and or affirmative link behind the conduct causing the Plaintiff

injury. The City of New York, commissioner Joseph Ponte commissioner of New York City Department of Corrections, Bureau Chief of Security Brian Suprenant, Warden Ada Pressley RNDC, Captain Anjelovic #1750, officer Cielto 3731, New York City Health and Hospitals Corporation are therefore liable for the violations of Plaintiff constitutional rights by the Defendants.

COUNT V. CONSPIRACY TO VIOLATE CIVIL RIGHTS DEFENDANTS THE CITY OF NEW YORK, JOSPEH PONTE COMMISSIONER NEW YORK CITY DEPARTMENT OF CORRECTIONS, BRIAN SUPRENANT BUREAU CHIEF OF SECURITY, WARDEN ADA PRESSLEY RNDC, CAPTAIN ANJELOVIC #1750, OFFICER CIELTO #3731, NEW YORK CITY HEALTH AND HOSPITALS CORPORATION

(Claim for Compensatory Damages)

97. Plaintiff incorporates by reference paragraphs 1 through 96.

98. Defendants The City of New York, Joseph Ponte commissioner of New York City Department of Corrections, Brian Suprenant Bureau Chief of Security, Ada Pressley Warden RNDC, Captain Anjelovic #1750, Officer Cielto #3731, New York City Health and Hospitals Corporation conspired to violate Plaintiff statutory Civil rights on violation of 42 U.S.C.A. § 1983, for which Defendant's are individually liable.

COUNT VI. ASSAULT AND BATTERY

DEFENDANTS THE CITY OF NEW YORK, NEW YORK CITY DEPARTMENT OF CORRECTIONS OFFICER CIELTO #3731

(Claim for Compensatory Damages)

99. Plaintiff incorporates by reference paragraphs 1 through 98.

100. The verbal abuse, and use of non-deadly force by defendant NYCDC OFFICER Cielto #3731, when defendant had no lawful authority to

(20)

spray the Plaintiff with the chemical weapon Olesresin Capsicum, when the Plaintiff was unarmed and did not pose a threat of death or grievous bodily injury to defendant or others, was without justification or provocation was excessive, and constitute assault and battery for which defendant's the City of New York, NYCDC officer Cielto #3731, are individually liable.

101. As a proximate result of the assault and battery committed by defendant NYCDC officer Cielto #3731, Plaintiff has sustained injuries. These injuries have caused and will continue to cause Plaintiff great suffering mentally.

COUNT VII. ASSAULT AND BATTERY

DEFENDANT OFFICER CIELTO #3731

NYCDC

(Claim for Exemplary Damages)

102. Plaintiff incorporates reference paragraphs 1 through 101.

103. The intentional spraying of the chemical weapon Olesresin Capsicum, and verbally abuse of Plaintiff by defendant NYCDC officer Cielto #3731, when the Plaintiff was unarmed and did not pose a threat of death or grievous bodily injury to defendant or others, when defendant did not have no lawful authority to use non-deadly force against Plaintiff, was done with actual deliberate disregard for human life and the rights of the plaintiff. Plaintiff is thus entitled to exemplary damages.

COUNT VIII. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

DEFENDANTS THE CITY OF NEW YORK, NEW YORK CITY DEPARTMENT

OF CORRECTIONS OFFICER CIELTO #3731

(Claim for Compensatory Damages)

104. Plaintiff incorporates by reference to paragraph 1 through 103.  
105. Defendant NYCDC officer Cielto #3731, intentionally sprayed the chemical weapon Olesresin Capsicum, and verbally abused Plaintiff in a manner that was extreme, outrageous, and unjustified, and caused Plaintiff to suffer physical and emotional distress for which the defendant's the City of New York, NYCDC officer Cielto #3731, are individually liable.

COUNT IX. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS  
DEFENDANTS THE CITY OF NEW YORK, NEW YORK CITY DEPARTMENT  
OF CORRECTIONS OFFICER CIELTO #3731

106. Plaintiff incorporates by reference paragraphs 1 through 105.  
107. The intentional use of excessive force through the chemical weapon Olesresin Capsicum, and verbal abuse of Plaintiff by Defendant NYCDC officer Cielto #3731, were unjustified and done with actual malice and wanton indifference to and deliberate disregard for human life and the rights of Plaintiff. Plaintiff is thus entitled to exemplary damages.

COUNT X.. RESPONDEAT SUPERIOR LIABILITY DEFENDANTS  
THE CITY OF NEW YORK, NEW YORK CITY DEPARTMENT OF CORRECTIONS  
COMMISSIONER JOSEPH PONTE, BUREAU CHIEF OF SECURITY BRIAN SUPRENTANT,  
WARDEN ADA PRESSLEY RND, CAPTAIN ANJELOVIC #1750, NEW YORK CITY  
DEPARTMENT OF CORRECTIONS OFFICER CIELTO #3731

(Claim for Compensatory Damages)

108. Plaintiff incorporates by reference paragraphs 1 through 107.  
109. At all times pertinent here to, Defendants Commissioner Joseph Ponte, Bureau Chief Security Brian Suprenant, Warden Ada Pressley

(22)

RNDC, Captain Anjelovic #1750, NYDOC officer Cielto #3731, were acting within the scope of their employment as officers of New York City Department of Corrections.

110. The City of New York is liable for compensatory damages under the doctrine of respondeat superior for the intentional torts of Defendants commissioner Joseph Ponte, Bureau Chief Brian Suprenant, Warden Ada Pressley RNDC, Captain Anjelovic #1750, NYDOC officer Cielto #3731, committed within the scope of their employment.

COUNT XI. RESPONDEAT SUPERIOR LIABILITY DEFENDANTS

THE CITY OF NEW YORK, NEW YORK CITY DEPARTMENT OF CORRECTIONS  
COMMISSIONER JOSEPH PONTE, BUREAU CHIEF OF SECURITY BRIAN SUPRENANT  
, WARDEN ADA PRESSLEY RNDC, CAPTAIN ANJELOVIC #1750, NEW YORK CITY  
OFFICER CIELTO #3731

(Claim for Exemplary Damages)

111. Plaintiff incorporates by reference paragraphs 1 through 110.

112. The City of New York, through its agents, expressly authorized Defendant's Commissioner Joseph Ponte, Bureau Chief of Security Brian Suprenant, Warden Ada Pressley RNDC, Captain Anjelovic #1750, NYDOC officer Cielto #3731, to use excessive force; knew, through its agents, that Defendants officers had a propensity for committing intentional torts, using excessive force in the line of duty; and acquiesced in the Defendant's wrongful conduct. Plaintiff is thus entitled to exemplary damages against the City of New York for the malicious conduct of Defendants.

COUNT XII. NEGLIGENT DEFENDANTS THE CITY OF NEW YORK,  
NEW YORK CITY DEPARTMENT OF CORRECTIONS COMMISSIONER JOSEPH  
PONTE, BUREAU CHIEF SECURITY BRIAN SUPRENANT, WARDEN ADA

PRESSLEY RNDC, CAPTAIN ANJELOVIC #1750, NYCDOC OFFICER CIELTO #3731

(Claim for Compensatory Damages)

113. Plaintiff incorporates by reference paragraphs 1 through 112.

114. Defendants Commissioner NYCDOC Joseph Ponte, Bureau Chief of Security Brian Suprenant, Warden Ada Pressley RNDC, Captain Anjelovic #1750, NYCDOC officer Cielto #3731, while acting as agents and employess for the City of New York in their capacity as corrections officers for the City of New York, owed a duty to Plaintiff to perform their correctional duties without the use of excessive force. Defendants use of force upon the plaintiff, when plaintiff was unarmed and did not pose a threat of death or grievous bodily injury to corrections officers or others constitutes negligence for which Defendant's are individually liable.

115. Defendant NYCDOC officer Cielto #3731, use of force upon plaintiff when Defendant had no lawful authority to use force against Plaintiff constitutes negligence for which Defendants are individually liable.

116. As a proximate result of Defendant negligence use of force, plaintiff has sustained injuries and these injuries have caused and will continue to cause Plaintiff pain and suffering mentally.

COUNT XIII. NEGLIGENCE DEFENDANT

THE CITY OF NEW YORK, NEW YORK CITY DEPARTMENT OF

CORRECTIONS OFFICER CIELTO #3731

(Claim for Compensatory Damages)

117. Plaintiff incorporates by reference paragraphs 1 through 116.

118. The negligent use of force upon the plaintiff by Defendant NYCDOC officer Cielto #3731, when the plaintiff was unarmed and did not pose a threat of death or grievous bodily injury to Defendant or

others, and when Defendant had no lawful authority to use force against Plaintiff was done with willfull and wanton indifference to deliberate disregard for human life and the rights of Plaintiff. Plaintiff is thus entitled to exemplary damages.

COUNT XVI. NEGLIGENT DEFENDANTS

THE CITY OF NEW YORK, NEW YORK CITY DEPARTMENT OF

CORRECTIONS OFFICER CIELTO #3731

(Claim for Compensatory Damages)

119. Plaintiff incorporates by reference paragraphs 1 through 118.

120. At all times of the incident, Defendant NYCDOC officer Cielto #3731, was acting within the scope of his employment as an officer of New York City Deapartment of Corrections for the City of New York.

121. The City of New York is liable for compensatory damages under of respondeat superior for the negligence of Defendant committed within the scope of their employment.

COUNT XV. NEGLIGENT DEFENDANTS

THE CITY OF NEW YORK, NEW YORK CITY DEPARTMENT OF

CORRECTIONS COMMISSIONER JOSEPH PONTE, BRIAN SUPRENANT

BUREAU CHIEF OF SECURITY, WARDEN ADA PRESSLEY RNDC,

CAPTAIN ANJELOVIC #1750

(Claim for Compensatory Damages)

122. Plaintiff incorporates by reference paragraphs 1 through 121.

123. Defendants The City of New York, Joseph Ponte Commissioner of New York City Department of Corrections, Brian Suprenant Bureau Chief of Security, Ada Pressley Warden RNDC, Captain Anjelovic #1750, failed to train, supervised, and discipline corrections officers,



including the individually named Defendant NYCDC officer Cielto #3731, as to prevent the use of excessive force through the chemical weapon Olesresin Capicum.

124. Defendant's The City of New York, Joseph Ponte Commissioner of New York City Department of Corrections, Brian Suprenant Bureau Chief of Security, Ada Pressley Warden RNDC, Captain Anjelovic #1750, failure to train, supervised, and discipline amounts to deliberate indifference to the rights of detainees with whom the Defendant NYCDC officer Cielto #3731, and the other NYCDC authorities in this case comes into contact, including the Plaintiff. It is this failure that has created and encourage on going use of excessive force through the chemical weapon Olesresin Capsicum, and various other forms of brutality by these corrections officers withou fear of any retribution and or sanctions by their superiors. Plaintiff sustained injuries and these injuries have and will continue to cause Plaintiff to suffer mentally as well as physically.

COUNT XVI. NEGLIGENCE DEFENDANTS

THE CITY OF NEW YORK, JOSEPH PONTE COMMISSIONER OF  
NEW YORK CITY DEPARTMENT OF CORRECTIONS, BRIAN SUPRENANT  
BUREAU CHIEF OF SECURITY, ADA PRESSLEY WARDEN RNDC,  
CAPTAIN ANJELOVIC #1750

(Claim for Exemplary Damages)

125. Plaintiff incorporates by reference paragraphs 1 through 124.

126. The deficiency in training, supervision, and discipline of New York city department of corrections officers, including Defendant NYCDC officer Cielto #3731, was an actual cause of the constitutio-

nal deprivations and injuries suffered by the Plaintiff.

127. The deficiency in training, supervision, and discipline of New York City Department of Corrections officers represents a deliberate indifference on the part of Defendants to the rights of incarcerated detainees including the Plaintiff. Plaintiff is thus entitled to exemplary damages.

COUNT XVII. PLAINTIFF AGAINST THE CITY OF NEW YORK FOR

MONELL LIABILITY

128. Plaintiff incorporates and reference paragraphs 1 through 127.

129. During all relevant times The City of New York, knowingly, and and with willful and deliberate indifference to the constitutional rights of detainees, maintained and permitted a widespread custom and practice of permitting the occurrences of the types of wrongs set forth in the following paragraphs.

130. During all relevant times, The City of New York maintained a widespread custom and practice of its corrections officers of the dangerous, and unconstitutional use of Excessive Force at facilities under NYCDC control. Plaintiff alleges a pattern of inadequate investigations into complaints of Civil Rights violations, tolerance of officers on prisoner brutality, denial of or deliberate delay of medical care, and a code of silence, of which NYCDC commissioner Joseph Ponte, Bureau Chief of Security Brian Suprenant, Ada Pressley Warden RNDC, and various other supervisory staff within the NYCDC are fully aware of and that is so pervasive, and has been tolerated for so long as to rise to the level of official policy. In support of these allegations, The Plaintiff amended complaint cites credible sources of information that can be inferred, including

(27)

DOC Commissioner Joseph Ponte's, June 2014 testimony before the New York City Counsel.

News articles documenting the brutality and excessive force by corrections officers. (See Graham Rayman, Rikers Fight Club: The Knockout Punch, Village Voice, April 15, 2009), (See Isolde Raftery, 6-year sentence for guard in Rikers Island beatings, N.Y. Times, August 7, 2010.), (See Graham Rahman, Teen Murder at Rikers Jail, Village Voice, Nov. 19, 2008.), (See Benjamin Weiser, Lawsuits suggested pattern of Rikers Guards looking the other way, N.Y. Times, Feb 4, 2009.), (See N.Y. Times 2014 report that found "brutal attacks by corrections officers on inmates" to be common that "the reluctance of DOC to acknowledge the problem and the fact that guards are rarely punished" has contribute to the problem, and which showed the use of force by officers had increased nearly 90% over five years begining in 2009.), (Citing a 2015 New York Times article quoting a DOC statement that "It Takes Time to Undo Decades of Mismangement".), (See CRIPA Investigation of New York City Department of Corrections Jails on Rikers Island August 4, 2014.) The DOJ Report contains the conclusions of an Investigation into "the treatment of adolescent males at RNDC facility. In the DOJ finding letter, the DOJ asserts that during the fiscal year 2013, there were 1,057 injuries among males in 565 reported incidents against inmates/detainees, which brute force is the first impulse rather than the last resort. This report is laced with brutality and misconduct by corrections

officers. Plaintiff alleges that the DOJ finding letter "concludes with recommendations to address the poor training and lack of accountability among officers." This 79-page bombshell report by the DOJ that list factual determinations how and why excessive force was use by these officers. The DOJ also described the "systemic defficiencies that contribute to, exacerbate and indeed are largely responsible for the excessive and unnecessary use of force DOC staff as including:

Inadequate reporting by staff of the use of force, including false reporting; inadequate investigations into the use of force

Inadequate staff discipline for inappropriate use of force

Inadequate supervision of inmates by staff

Inadequate training both on use of force and on managing adolescents; and general failure by management to address the extraordinary high levels of violence perpetrated against and among the adolescent population.

Further, the DOJ found that

[i]nmates are beaten as a form of punishment, sometimes in apparent retribution for some perceived disrespectful conduct. Correction officers improperly use injurious force in response to refusal to follow orders, verbal taunts, or insults, even when the inmate present no threat to the safety or security of staff or other inmates.

In its investigation, the DOJ "reviewed hundreds of thousands pages

of records from both DOC and the Department of Mental [Hygiene ] ("DOHMH"), "the latter of which provides medical services to inmates at Rikers. (DOJ Finding Letter2). The DOJ further identified a sample of "approximately 200 use of force incidents" and interviewed staff from DOC and the DOHMH on issues related to these and other incidents including "use of force policies and practice, inmate supervision, staffing, the use of punitive segregation, medical treatment of injuries, security, investigations, [and] training."

(ld). The DOJ determined "that a deep-seated culture of violence is pervasive throughout the adolescent facilities at Rikers, DOC staff routinely utilize force not as a last resort, but instead as a means to control the adolescent population and punish disorderly or disrespectful behavior."

The DOJ concluded that "[t]he [DOC]'s failure to curb these patterns and practices that place adolescents at ongoing risk of serious harm constitutes deliberate indifference to the adolescents' safety while in...custody and violates their constitutional rights." (DOJ Finding Letters 11).

Further, during all relevant times the City of NY, NYCDOC commissioner Joseph Ponte, Bureau of Security Chief Brian Suprenant, Ada Pressley Warden RNDC, failed to train correction officers to: engage only in reasonable use of force, rather than excessive force. Where supervisors failure to train amount to deliberate indifference to the rights of persons with whom his/her subordinates come in contact, the adequacy of training serves as a basis for § 1983 liability. Evidence of defective training listed in the DOJ's 2014 investigative report affirmatively linked to the underlying incident.

~~This investigative report done on the~~ ROBERT N. DAVORAN CENTER (RNDC), where the Plaintiff suffered abuse at the hands of corrections officers who lacked proper training in the use of force through the chemical weapon Olesresin Capsicum. The City of New York, NYCDC Commissioner Joseph Ponte, Bureau Chief of Security Brian Suprenant, and Ada Pressley Warden RNDC, has demonstrated reckless or callous indifference to the rights of detainees/inmates. This is not an isolated incident at RNDC, This is common occurrences that has plague all detention facilities under DOC control on Rikers, and both houses of detention located in Manhattan and Queens.

See lawsuits of Excessive force and brutality listed below:

Excessive force at RNDC, Nunez v. City of NY, 2013 WL 2149869;  
See Tartt v. City of NY, 2014 WL 3702594; See Yashua Plair v. City of NY, 2011 WL 2150658; See Holland v. City of NY, 2016 WL 363249;  
See Kenneth Brown V. New York City Department of Corrections, 2018 WL 2389718; Fountain v. Schriro, 2014 WL 6655542

Excessive Force at facilities under NYCDC control

See Fountain v. City of NY, 2012 WL 1372148; See West v. City of NY, 2014 WL 4290813; See John Daniels v. City of NY, 2014 WL 325934: See Edwards v. City of NY, 2015 WL 5052637; Pereyra v. Eaddy, 2015 WL 3953606; White v. City of NY, 2015 WL 4601121; Poulos v. City of NY, 2015 WL 5707496; Mcleod v. City of NY, 2016 WL 3144052; Rodriguez v. City of NY, 2016 WL 5476003; Jose Guadalupe v. City of NY, WL 675440; Jose Guadalupe v. City of NY, 2016 WL 3570545; Aquino v. City of NY, 2017 WL 384354; See Aquino v. City of NY, 2017 WL 2223921; Wilson Calderon, 2017 WL 3209148; Wilson v. Calderon, 2017 WL 2881153; Manley v. Grossman, 2017 WL 4326511; Parson v. City of NY, 2017 WL

**Roundtree v. City of NY, 2018 WL 1586472.**

These lawsuits above with the inclusion of findings by the Department of Justice concerning the brutality, excessive force and numerous constitutional violations that corrections officers committing at RNDP as well as facilities under DOC control.

These poorly trained officers commit acts of brutality with their hands on detainees, and all of these poorly trained officers are given the dangerous chemical weapon and they deploy it at will for minor verbal taunts and insults. These officers are not adequately trained in the use of Olesresin Capsicum, their continuous failure and or refusal to follow the directive on the use of this chemical weapon. NYCDOP commissioner Joseph Ponte, Bureau Chief of Security Brian Suprenant, and Warden Ada Pressley RNDP, failure to insure the necessary training of corrections officers under their command about how to use this chemical weapon, decontamination procedures, immediate medical attention and treatment to those either sprayed or exposed to Olesresin Capsicum. Such failure by these supervisory officials reflected reckless or callous indifference to constitutional rights of detainees. The mere existence of formal regulations, however, will not save supervisors from liability if they knew, or should know that the regulations are routinely violated by corrections officers under their command. NYCDOP officers cannot insulate municipality from liability where there is evidence of continuous blatant violations of this policy. Constitutional analysis of procedures does not stop with analysis of the written policy. Whatever the written policy stated, the procedure that was mandated and required to be followed by NYCDOP officers are listed in the directive.

Plaintiff alleges that these customs, policies and training described above, were the moving force behind the violations of the Plaintiff's rights. The pervasiveness of staff-inmate violence is the predictable result of defendant's policies and practices most significantly the defendant's failure to prevent the continuous misuse of force by adequately training officers in the appropriate use of force and their failure to deter misuse of force by adequately investigating and disciplining use of force. Here the underlying constitutional right of the Plaintiff is to be free from the use of excessive force by his jailers. Based on the principals set forth in *Monell v. New York City Department of Social Services*, the City of New York is liable for all the harm done to the Plaintiff as set forth above.

COUNT XVIII. DENIAL OF MEDICAL TREATMENT DEFENDANTS

NEW YORK CITY HEALTH AND HOSPITALS CORPORATION, CAPTAIN

ANJELOVIC #1750, NYCDC OFFICER CIELTO #3731

131. Plaintiff incorporates and reference paragraphs 1 through 130.

132. That at the aforesaid place and time New York City Health and Hospitals Staff, Captain Anjelovice #1750, NYCDC officer Cielto #3731, were acting within the scope of their employment, as employees of the City of New York.

133. The Defendant's Captain Anjelovic #1750, NYCDC officer Cielto #3731, knew from being informed by the plaintiff, or should have known that the Plaintiff had a serious medical need and was in need of immediate medical care and or medication after being sprayed with the chemical weapon Olesresin Capsicum. Defendant's failed



(33)

to take reasonable action to summon medical care. Once the Plaintiff was finally brought to the clinic in RNDC, the Defendant New York City Health and Hospitals staff made the Plaintiff sit in agony waiting to be seen by a physician for several hours as they attended to the needs of others who had arrived after the plaintiff. The delay in the provision of medical treatment was intentional and reckless. Further, through the Defendant's willful and wanton conduct, Defendant's were deliberate indifferent to the plaintiff health and safety.

134. As result of the forgoing, the Defendant's New York City Health and Hospitals Corporation, Captain Anjelovic #1750, NYCDC officer Cielto #3731, deliberately and intentionally failed to promptly provide the plaintiff with such medical treatment. Plaintiff has sustained injuries including, but not limited to, physical, mental, and emotional pain and suffering all to his detriment.

135. The lack of medical care or attention inflicted upon the Plaintiff by the Defendant's New York City Health and Hospitals, Captain Anjelovic #175, NYCDC officer Cielto #3731, was unnecessary, unreasonable, and excessive and therefore in violation of Plaintiff's Eighth, Fourteenth Amendment, as well to be free from Cruel or Unusual Punishment by New York City Health and Hospitals Staff and Captain Anjelovic #1750, and NYCDC officer Cielto #3731.

COUNT XVIII. PLAINTIFF AGAINST THE CITY OF

NEW YORK MONELL CLAIM MEDICAL

136. Plaintiff incorporates and reference paragraphs 1 through 135.

137. During all relevant times, The City of New York knowingly and with willful and deliberate indifference to the constitutional rights

of detainees, maintained and permitted a widespread customs and practice of permitting the occurrence of the types of wrong set forth in the following paragraphs.

138. During all relevant times, the City of New York, New York City Health and Hospitals Corporation, New York City Department of Corrections maintained and permitted a widespread customs and practice of its employees being deliberately indifferent to the serious medical need of the detainees of the Robert N. Davoran Center facility. Plaintiff claims that individual defendant's refusal to provide him with prompt medical treatment after he was sprayed by NYCDOC officer Cielto #3731, with the chemical weapon Olesresin Capsicum. Plaintiff immediately voiced to NYCDOC captain and the officer who sprayed him with the chemical that he was in extreme pain, unable to breath and various other injuries, and demanded that he be brought to the clinic for immediate treatment. To establish a serious medical condition "the alleged deprivation must be sufficiently serious, in the sense that a condition of urgency, one that may produced death, degeneration, or extreme pain exist". NYCDOC officer's obstructed their efforts to provide Plaintiff with medical care and transport him to the clinic at RNDC. Once Plaintiff arrived at the clinic NYCHHC made the plaintiff wait for several hours in pain before being seen by a physician. The clinic staff recklessly failed to act with reasonable care to mitigate the risk that the condition posed. Even though the defendant NYCHHC clinic staff knew, or should have known, that the condition posed an excessive risk to health and safety of the plaintiff. The Plaintiff also

alleges a pattern of of inadequate investigations into complaints of civil rights violations, denial or deliberate delay of medical care of which supervisory staff within New York City Health and Hospitals Corporation, and DOC are aware of and that is so pervasive and has been tolerated for so long as to rise to the level of official policy. Plaintiff asserts that there are entrenched cultures of neglect of medical needs, cover-ups and upper echelon officials turning a blind eye to misconduct. The Plaintiff also alleges the persistent and widespread practice of the City of NY municipal inaction in the face of government documented misconduct through investigations of which Defendant's were aware, sufficient to state a claim of municipal liability based on policy and custom. To support these contentions, the Amended Complaint reference a report issued by United States Attorney's Office for the Southern District of New York ("DOJ Report") detailing the treatment of adolscent males at DOC jails on Rikers Island from 2011 through 2013. (See U.S. DEPT OF JUSTICE, CRIPA Investigation of the New York City Department of Corrections jails on Rikers Island, at pp. 1-2(2014)). Though Chiefly concerned with the treatment of inmates between the ages of 16 and 18 , the DOJ Report states that "[the] investigation suggests that the systemic deficiencies identified ... may exist in equal measure at other jails on Rikers [Island]." (See DOJ Report at pp. 1-2.) The DOJ Report makes note of a separate report issued by the Department of Health and Mental Hygiene ("DOHMH") in late 2013, which found that 45 inmates reported that DOC staff interfered with their efforts to seek medical treatment, or otherwise retaliated against them, follow-

ing a use of force incident. The DOJ report explicitly states that inadequate training is one systemic deficiency contributing to the excessive force and denial or deliberate delay of medical care, recommendations in the DOJ Report are largely directed at improving training programs, indicating many of listed deficiencies correlate to a failure to properly train DOC personnel. (Id. at pp. 53-63.) The content of the DOJ Report provides support for inferences that of denial or deliberate delays in the provision of medical care occur regularly, all of which may in part be attributable to the City's failure to adequately train NYCHHC staff and DOC personnel. (See 2014 WL 12644179 (D.O.J.) FEDERAL BUREAU OF INVESTIGATION (FBI) RIKERS ISLAND CORRECTIONS OFFICER FOUND GUILTY IN MANHATTAN FEDERAL COURT OF DELIBERATELY IGNORING URGENT MEDICAL NEEDS OF INMATE WHO DIED.) (See Also 2014 NEW YORK STATE COMMISSION OF CORRECTIONS ("NYSCOC") REPORT THAT DETAILED THE INADEQUATE MEDICAL SERVICES AVAILABLE TO RIKERS ISLAND DETAINEES. These lawsuits listed below support the inference that the denial or deliberate delay of medical by NYCHHC, CORIZON HEALTH CARE, DOC personnel was persistent and widespread well before the plaintiff incident. (See *Kearsey v. Williams*, 2005 WL 2125847); (See *West v. City of NY*, 2014 WL 4290813); (See *Jackson v. City of NY*, 2016 WL 6779586); (see *Rodriguez v. Corizon Health Care*, 2016 WL 3766397); (See *Cuffee v. City of NY*, 2017 WL 1134768); (See *Grimmett v. Corizon Medical Ass*, 2017 WL 2274485); (See *Davis McCready*, 2017 WL 4803918); (See *Man Zhang v. City of NY*, 2018 WL 3187343); (See *Stewart v. City of NY*, 2018 WL 1633819); (See *Isaac v. City of NY*, 2018 WL 1322196); (See *Hernandez*

(37).

v. City of NY, 2242965); (See Roundtree v. City of NY, 2018 WL 1586473). Collectively these allegations, taken as true, show the City's acute awareness of the pervasive denial or deliberate delay of medical treatment by NYCHHC and DOC personnel. This plausibly shows that denial or deliberately delayed medical treatment in DOC facilities is so pervasive that City's failure to take corrective action creates an inference of deliberate indifference to inmates constitutional rights. It is certainly not always the case that the fact of series of lawsuits alleging similar claims support Monell claim. Here, however, the point is one of notice. Civil suits filed prior to Plaintiff denial or deliberately delayed medical treatment by NYCHHC and DOC personnel are relevant here not because they proved that such denial or delayed medical treatment prior to the incident at issue. Furthermore, Plaintiff does not solely rely on these prior suits to support his Monell claims. These allegations are buttressed by several government reports detailing the City, NYCHHC and DOC awareness that denial or deliberately delayed medical treatment was widespread problem.

139. Further, during all relevant times, the City of New York failed to train New York City Health and Hospitals Corporation and New York City Department of Corrections personnel to properly assess after the use of force by corrections officers a detainee serious medical need and to seek medical attention for a detainee's serious medical need.

140. Plaintiff alleges that these customs policies, and failure to train, described above were moving force behind the violations of the Plaintiff's rights. During all relevant times, the law required

that detainees be subjected to due process of the law and not be subject to cruel and unusual punishment. Based on the principles set forth in *Monell v. New York City Department of Social Services*, 436 U.S. 658, (1978). The City of New York is liable for all the harm done to the Plaintiff as set forth above.

COUNT XX. PLAINTIFF AGAINST THE CITY OF NEW YORK

IDEMNIFICATION

141. Plaintiff incorporates by reference paragraphs 1 through 140.

142. The City of New York is empowered and directed to pay any judgement for compensatory and exemplary damages and any associated attorney's fees and costs for which an employee of New York City Department of Corrections, New York City Health and Hospitals Corporation, acting within the scope of their employment.

143. In the event that a judgment for compensatory and exemplary damages is entered against Defendants NYCDCO commissioner Joseph Ponte, Bureau Chief of Security Brian Suprenant, Ada Pressley warden RNDC, Captain Anjelovic #1750, officer Cielto #3731, New York City Health and Hospitals Corporation. The City of New York must pay the judgment as well as the associated attorney fee and costs.

WHEREFORE, Plaintiff respectfully request that this honorable court grants the following relief:

A. Declare that NYCDCO officer Cielto #3731, use of force on the Plaintiff was unnecessary, unreasonable, and excessive. The misconduct described was undertaken with malice and willful wanton , was sufficiently serious and that officer Cielto #3731, acted intentionally and recklessly failed to act with reasonable care. This is

a violation of the Plaintiff's constitutional rights 8,14, amendments's, and not be subjected to Cruel and Unusual Punishment, as well as State Law rights,

B. Declare that Captain Anjelovic #1750, Officer Cielto #3731, intentionally delayed in the necessary medical care after the Plaintiff was sprayed with the chemical weapon Olesresin Capsicum, amounting in effect to a form of punishment, Based on serious medical need both defendant's was deliberate indifferent to Plaintiff's health and safety. Defendant's Anjelovic #1750, Officer Cielto #3731 Cruel and Unusual Punishment and lack of care and medical response the Plaintiff's constitutional rights were violated under 8, 14 Amendments.

C. Declare NYCDOC Commissioner Joseph Ponte, Bureau Chief of Security Brian Suprenant, Warden Ada Pressley RNDC, allowed the use of excessive force at the hands of corrections officers at RNDC, and throughout facilities under DOC control. These supervisory Defendant's failure to intervene and permitted a widespread customs and practice of permitting the continuous occurrences of these types of wrongs that conduct has become a traditional method of carrying out policy. Here the underlying constitutional right of the Plaintiff is to be free from the use of excessive force by his jailers.

D. Declare that the City of New York, NYCDOC Commissioner Joseph Ponte, Bureau Chief of Security Brian Suprenant, Warden Ada Pressley RNDC, during all relevant times maintained a widespread custom and practice and deliberate indifferent to the constitutional rights of detainees. The dangerous unconstitutional use of excessive force at all facilities under NYCDOC control, and a pattern of of

(41)

of inadequate investigations into complaints of civil rights violations, tolerance of officers on detainees/inmate brutality and a code of silence, of which NYCDOC commissioner Joseph Ponte, Bureau Chief of Security Brian Suprenant, Warden Ada Pressley RNDC, and various other supervisory staff within the NYCDOC are fully aware of and that is so pervasive, and has been tolerated for so long as to rise to the level of official policy.

E. Declare that New York City Health and Hospitals Corporation, conduct violated Plaintiff rights by intentionally delayed him from receiving treatment from injuries caused by excessive force through the chemical weapon Olesresin Capsicum. The alleged deprivation must be sufficiently serious, in the sense that a condition of urgency, one that may produce death, degeneration, or extreme pain exist. The NYCHHC clinic staff recklessly failed to act with reasonable care to mitigate the risk that the condition pose. Even though the Defendant NYCHHC clinic staff, knew or should have known, that the condition posed an excessive risk to health and safety of the Plaintiff, and subjecting the Plaintiff to Cruel and Unusual Punishment, and in violation of the U.S. Const. 8, 14 Amendments.

F. Declare The City of New York, New York City Health and Hospitals Corporation maintained and permitted widespread custom and practice of its employees being deliberate indifferent to the serious medical needs of detainees in the care and custody of the City. NYCHHC pattern of inadequate investigations into complaints of civil rights violations, denial and deliberate delay of medical care of which the City of NY, and supervisory staff within NYCHHC are well aware



(42)


of and so pervasive and has been tolerated for so long as to rise to the level of official policy.

G. Issue an preliminary injunction seeking an order requiring the City of New York to create and implement new policies to enforce the constitutional rights under 42 U.S.C. § 1997 A CRIPA.

H. Award the Plaintiff damages in the following amounts :

1. \$10,000,000.00 Compensatory damages in favor of Plaintiff.
2. 6,000,000.00 Exemplary damages in favor of Plaintiff.
3. Costs of this action, including reasonable attorney fees to the Plaintiff; and
4. such other and further relief as this court may deem appropriate.

Dated: 3rd Day of December, 2018

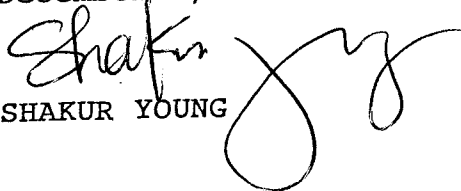


SHAKUR YOUNG  
DIN: 17R3045  
GREENE CORRECTIONAL FACILITY  
PO BOX 975  
COXSACKIE, NY 12051-0975

DEMAND FOR JURY TRIAL

Pursuant to RULE 38 of the Federal Rules of Civil Procedure,  
Plaintiff demands trial by jury.

December 3, 2018



SHAKUR YOUNG

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----  
SHAKUR YOUNG

V

DOCKET NO. 18-CV-3316(CM)

THE CITY OF NEW YORK, NEW YORK CITY  
DEPARTMENT OF CORRECTION COMMISSIONER  
JOSEPH PONTE, BUREAU CHIEF OF SECURITY  
BRIAN SUPRENT, WARDEN ADA PRESSLEY  
RNDC, CAPTAIN ANJELOVIC #1750, NYCDC  
OFFICER CIELTO #3731, NEW YORK CITY  
HEALTH AND HOSPITALS CORPORATION  
-----

CERTIFICATE OF SERVICE

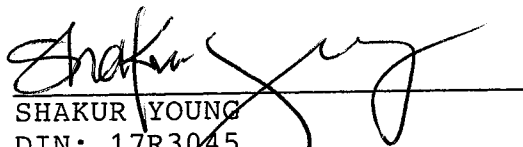
I certify that I am more than 18 years of age and that on  
December , 2018, I served a copy of Amended Complaint on the  
following parties in this matter:

ZACHARY W. CARTER  
CORPORATION COUNSEL OF THE CITY OF NEW YORK  
ATTORNEY FOR DEFENDANT CITY OF NEW YORK  
100 CHURCH STREET, RM. 3-209  
NEW YORK, NEW YORK 10007

Mode of Service  
U.S. POSTAL BOX  
GREENE CORRECTIONAL FACILITY

I certify under penalty of perjury that the forgoing is true  
and correct.

Dated: December 5, 2018

  
SHAKUR YOUNG  
DIN: 17R3045  
GREENE CORRECTIONAL FACILITY  
PO BOX 975  
COXSACKIE, NY 12051-0975

ATIONAL FACILITY

EW YORK 12051-0975

AKUR, YOUNG

DIN: 17R3045

NECPOST

12/08/2018

9002.280

ZIP 12031  
041011287870

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
500 PEARL STREET  
NEW YORK, NY 10007-1312  
PRO SE INTAKE UNIT

USM<sup>P3</sup>  
SDNY LEGAL MAIL

Printed on Recycled Paper

NAME: Shakir Young  
OFFENDER CORRESPONDENCE PROGRAM  
DIVISION  
DIN: 17R3045

220